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William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Dear Mr. Caton:

Re: **Comments on Notice of Inquiry to Identify and Eliminate Market Entry Barriers for Small Businesses (GN Docket No. 96-113, FCC 96-216)**

Integrated Communications Group Corporation is a small business composed of four minority owned founding companies, each of which is a small business. Each of the four member companies as well as the principals, has had experiences in dealing with the Federal Communications Commission (FCC) over the years in the areas of broadcasting, satellite, and reselling of long distance, paging and cellular services. Collectively, we participated in the C block PCS auction. We are also currently participating in the "D", "D", and "F" block PCS auction.

We have experienced several barriers to entering the telecommunications industry. By far, the largest market entry barrier has been access to capital. Government rules, regulations and actions have contributed to erecting this barrier. For example, for over a decade, the Small Business Administration (SBA), the principal agency of the federal government chartered to assist small businesses, was expressly prohibited from guaranteeing bank loans to small businesses in radio and television, although financial assistance continued to be available to small businesses in other industries. Perhaps, one step the FCC can take to eliminate market entry barriers is to recommend to Congress the adoption of a revised race neutral tax certificate based on small business size standards.

More currently, the FCC has erected for minorities, women and small businesses, a barrier with its definition of what constitutes a small business (size standard). Rather than accepting the SBA standard industrial classification (SIC) code of 4899 as the definition of small for PCS which has a cap of $11 million annual gross sales, the FCC says that an entity with annual gross sales of under $125 million is a small business. The FCC has created tiers within this category with additional benefits for entities at lower annual gross sales of $40 million and $15 million applicable in the 10 MHz PCS auction. Considering that 99% of all minority as well as women owned businesses have annual sales of less

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than $1 million, this action by the FCC functions as a major barrier for the market entry of minority as well as women owned businesses. With a size standard of $11 million for entities eligible for the maximum benefits available for the entrepreneurial C block auction, we could have retained most of the investors that left us after the FCC eliminated preferences for minority owned companies with the adoption of the Sixth Report & Order. We know of numerous minority owned firms that spent a lot of time and money preparing to participate in the PCS auction based on the FCC's favorable rules and subsequently lost their investors which precluded them from participating in the C block auction after the FCC changed the rules with the Sixth Report & Order.

This market entry barrier can be eliminated by the FCC by adopting the SBA size standard of $11 million for small businesses to be eligible to receive the maximum benefits, discounts and preferences in the allocation of spectrum and telecommunication properties such as those opportunities that might arise should the FCC allow geographic partition and spectrum disaggregation. The FCC should develop incentives to motivate PCS licensees to sell spectrum or partition their licenses with first priority being given to minorities, women and very small businesses. If the FCC had used the SBA size of $11 million, the intent of Congress to make available maximum opportunities for small business and firms owned by women and minorities would have been better achieved. At the same time, the FCC would have avoided the concentration that occurred of the most valuable licenses in the hands of a few.

The FCC further frustrates its stated purpose to allow benefits to small businesses, including minority and women owned, by changing the rules midstream. For example, the FCC eliminated attribution rules with the effect of allowing big business to set up fronts with their own executives in order to qualify as small business, including minority and women owned businesses (i.e., such as in the Sixth Report & Order). The result of allowing such abuses was not only were the benefits of small and even "very small" virtually eliminated the hopes of legitimate small businesses, including minority and women owned were crushed. Finally, after virtually years of preparing for the auctions, it became obvious to minority and women owned businesses that the FCC was insincere in its stated purpose of providing benefits to small businesses including minority and women owned businesses.

The FCC actions, which speak louder than their words, have wasted the limited resources of precious time, limited capital, resourcefulness, hope and expectations of legitimate small business persons. The FCC should remove this barrier by earning back the respect and trust of the small, minority and women owned business communities. This can only be accomplished by adopting fair and just rules that provide real benefits to legitimate small businesses. Allowing rules to be adopted that circumvent the purpose of providing benefits to small, minority and women owned businesses destroys credibility.

A third example of government regulations and actions that have created barriers is the contract issued by the General Services Administration (Solicitation No. KEF-CC-96-0001) for wireless telecommunications services, devices, and accessories for **all** federal agencies, state, local and tribal governments, authorized contractors, and agency sponsored universities and laboratories. The acquisition is for seven years (with options) and encompasses access to FTS2000, and/or Post-FTS2000 and/or other commercial long distance services. We attempted to apply but discovered that we were not eligible to participate because we can not provide national wireless coverage. The solicitation contains no incentives for the participation or inclusion of small businesses.

It is especially cruel to close the doors of opportunity to minorities who paid millions of dollars to the federal government to acquire spectrum in the PCS auctions to later be informed that this same government has closed the procurement door on them. This is the same government that has made promises of providing an equal opportunity for minority businesses in a robust and competitive environment. To eliminate this market entry barrier, the FCC, in conjunction with its Telecommunications Development Fund, should work with the SBA, the General Services Administration, the Department of Commerce and other major agencies to stimulate the development of incentives for small businesses to viably participate in governmental procurement opportunities. For example, contracts could be smaller than national in scope.

Another example of market entry barriers in which government contributes to erecting market entry barriers to ethnic minority owned businesses is found in the process of obtaining zoning approvals for radio towers. I personally experienced years of frustration and costly battles which unfortunately took on racial overtones (see enclosed newspaper articles). After surviving a lengthy and costly FCC comparative hearing process in which the FCC approved our broadcast license with a first time service in a Spanish language format, the president of the local homeowners' association asked during our local zoning process, "How come they won't speak in American?" This local representative also said that we should locate our radio towers in an area with a Hispanic population even though we had made it clear that we could locate our radio towers only in a limited geographical area to be able to provide interference free broadcast services. After time consuming and expensive delays, lawsuits and other barriers to get the station on the air, we were ultimately denied zoning approval for radio towers by the local government.

After ten years of struggling and expending hundreds of thousands of dollars, in order to construct the station, we ultimately had to sell controlling interest and diplex with the only station that would negotiate with us. Unfortunately, that station has only one radio tower. With one tower we are not able to provide adequate signal coverage in the marketplace. The station is struggling to survive economically. Although the station is the only FCC station providing services in Spanish in San Diego, there are over 25 stations in the marketplace originating signals (several with much stronger signals and much better coverage) from the adjacent community of Tijuana, Mexico. To eliminate barriers created by local zoning boards, the FCC should extend the tower-siting provisions in the 1996 Telecommunications Act (Section 704) to include all telecommunications towers (radio, television, cable as well as cellular and PCS).

Another barrier to market entry are business practices of incumbent telecommunication carriers. For example, Columbia Cellular, one of our member companies, had to raise $100,000 to leave in deposit with each of the cellular carriers in one market in order to be able to resell cellular services on their systems. The $100,000 deposits are a significant market entry barrier for small minority owned cellular resellers. To our knowledge, there are only two Hispanic owned companies reselling cellular cervices in California, the state with the largest number of Hispanic owned small businesses in the country. To eliminate this barrier, the FCC could require carriers subject to resale requirements to eliminate policies such as unreasonable deposits in that they restrict competition and inhibit the growth and development of small businesses.

The government has decided to allow reselling of wireless services. Based upon the personal experiences of Columbia Cellular in the state of California (i.e., in the past California regulated cellular service and mandated the existence of cellular resellers), we know that the FCC must carefully regulate carriers in order to insure proper and just regulations are applied to protect resellers from artificial barriers created by carriers to stifle competition. We know of numerous examples of subtle treatment of resellers by carriers that prevent the legitimate competition by resellers. If the FCC does not adequately protect resellers from carriers, resellers will not survive. We believe reselling may be the only real opportunity for small minority and women owned businesses to participate in providing wireless services.

The barrier of access to capital is more difficult to overcome in the telecommunications industry than in other industries. Eventhough I had no business experience, I was able to finance my first business, a McDonald's franchise, with the help of an SBA loan. Several years later, despite my success and acquired experience as a small businessman, I was not able to get a loan to obtain a radio broadcast property. To enter into the telecommunications business, I had to rely on the profits from another business which limited opportunities and ultimately cost me more time and money to enter than it would have if I had been able to get the same type of financing as I received when I started my fast food business. This barrier of access to capital can be eliminated by the FCC by augmenting its efforts beyond the Telecommunications Development Fund. Therefore, to serve the public interest, the FCC should take extra ordinary measures to remove market entry barriers Working with the SBA and the industry, a larger pool of funds can be created and leveraged with the participation of investment firms, insurance companies, banks, and institutional investors.

Other market entry barriers for minorities are the FCC's policies on consolidation, mergers and acquisitions, especially in radio and television industries. I am selling my interests in radio stations. They are located in smaller markets. These stations can not compete with group owners because the resources of small businesses are limited and group owners greatly influence major advertisers media budgets and buys. This barrier can be eliminated by the FCC by offering incentives to sellers of media properties in major markets who sell to a consortium of minorities, women and small businesses.

Access to information is a market entry barrier. To overcome this barrier, the FCC should co-sponsor seminars and workshops jointly with ethnic minority business organizations, groups and chambers of commerce in the various regions of the country.

Sincerely yours,

Mateo R Camarillo

Mateo R. Camarillo
Coordinator

San Diego, Friday, October 28, 1988 THE TRIBUNE

Spanish radio station bid gains

County approval of three towers remains

By Siobhan Morrissey
Tribune Staff Writer

The county is a step closer to having its first Spanish-language radio station, which could be beaming a "buenos dias" to listeners within six months.

County officials Sept. 30 completed the final environmental impact report on the station's three proposed radio towers, which are to be erected in Lakeside.

Today, radio station consultant Brian Mooney is to meet with county officials to present technical information that will help the Board of Supervisors decide whether to approve construction of the towers.

Barring an appeal, the board's vote is the last barrier the project will face, said Sonja Itson, the county official in charge of regulatory planning.

After an eight-year struggle, the station could go on the air as early as April 1989 to serve a potential audience of nearly half a million listeners in an area reaching as far north as San Luis Obispo and almost to Calexico in Imperial County.

San Diego's first Spanish-language radio station is a reflection of the mushrooming influence and presence of Hispanics in the United States. U.S. Census officials say at least 300,000 Hispanic immigrants flow into the South and the West annually. In San Diego alone, the Hispanic population is expected to reach 623,000 by 1990.

Because of that influx and a growing need to reach Hispanic listeners, Tijuana-born Mateo Camarillo, 46, decided to form Quetzal Bilingual Communications Inc. The company, named after Guatemala's national bird and ancient deity of the Mayas, was created to organize the radio station.

The project began after the Federal Communications Commission deregulated the airwaves in 1980, making available 103 new frequencies nationwide, one of which was in San Diego.

In 1985, after buying out another competitor, Camarillo obtained rights to transmit on AM 1040. Associating 1040 on the dial with the federal income tax forms, Camarillo de-

MATEO CAMARILLO
Needs approval for towers

"I'm sure people will remember the call letters with the position, 1040," he said. "It's a part of daily life, as sure as paying taxes and dying."

Camarillo first selected Santee as the site for his three 295-foot radio towers, but city officials had other ideas for the land, namely a Town Center.

After studying scores of other

> *Associating 1040 on the dial with the federal income tax forms, Camarillo decided to use the call letters KIRS*

sites, Camarillo and his partners chose an 18-acre parcel near the San Vicente Reservoir in Lakeside.

Area residents, led by Harold Swanson and the Morena Valley Homeowners Association, tried to thwart the project, saying the towers would be dangerous and an eyesore.

The county approved plans for the tower construction, but the homeowners won a reprieve in November 1986, when Superior Court Judge Arthur Jones ruled that the county

port on the towers before issuing a permit.

Swanson and his group complained that the towers could cause radio "hot spots" that would interfere with television reception, microwave equipment and machinery stored or operating within a half-mile of the station.

The report that Mooney, president of Brian F. Mooney and Associates, planned to present to the county today allays those fears, the consultant said.

But even if the towers do not disturb local television and appliances, Swanson said, he wants to know, "How come they won't speak in American?"

Camarillo said the placement of the towers was not based on the ethnicity of the station. It's a matter of finding a spot in the county where the 1040 radio signal will not drown out neighboring 1050 in Mexicali or 1040 in Des Moines, Iowa. The Des Moines station, WHO, is the clear-channel superstation where President Reagan got his start as a sportscaster in the 1930s.

In 1982 and 1983, WHO won a victory in Congress, forcing the Reagan administration to scuttle plans to use WHO's 1040 frequency to broadcast news and music to Cuba over "Radio Marti."

In San Diego, KIRS plans to broadcast news and music 24 hours a day, mixing English occasionally with Spanish in an effort to educate and entertain an estimated 480,000 Hispanic listeners.

Studies show that although many speak English, about two-thirds of Hispanics nationwide prefer to hear news in their native tongue.

And Hispanics living in San Diego want to hear about local council and school board activities, not news from the 17 Spanish-language radio stations beamed into the area from Mexico, Camarillo said.

Mexican stations concentrate on Mexico and pay little attention to issues north of the border.

"Why don't Hispanics go and vote? A lot of the time the issues are not a part of their daily lives," Camarillo said. "We hope to change that. You will see more participation. Hispan-